

FILED & ENTERED

MAY 04 2017

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
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**NOT FOR PUBLICATION**

**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION**

In re:

REGGIE LYN BISHOP,

Debtor.

Chapter 7

Case No. 2:16-bk-16503-RK

Adv. No. 2:16-ap-01388-RK

ORDER DENYING DEFENDANT'S  
EX PARTE MOTION FOR CONTEMPT AND  
REQUEST FOR SANCTIONS

WILLIE PHELPS,

Plaintiff,

vs.

REGGIE BISHOP,

Defendant.

Having considered Defendant Reggie Lyn Bishop's Ex Parte Notice of Motion and Motion to Hold Plaintiffs in Contempt and Request for Sanctions ("Motion") (Docket No. 55) filed on April 28, 2017, the court hereby denies the Motion as follows:

1 1. Defendant fails to state cause to warrant initiating proceedings for holding  
2 Plaintiffs in contempt under Local Bankruptcy Rule ("LBR") 9020-1(a). First,  
3 the Motion refers to "Plaintiffs" in plural whereas there is only one Plaintiff,  
4 Willie Phelps, in this adversary proceeding, Adv. No. 2:16-ap-01388. Second,  
5 the Motion makes no specific allegations as to Plaintiff Willie Phelps. Third,  
6 the Motion appears to be an identically worded motion filed in another  
7 adversary proceeding, Adv. No. 2:16-ap-01383, against other Plaintiffs  
8 relating to those parties. In the Motion filed in this adversary proceeding as  
9 well as in the motion filed in the other one, Defendant alleges that the  
10 Gwendolyn R. Moore Revocable Living Trust ("Trust"), of which a Plaintiff in  
11 the other adversary proceeding, Adv. No. 2:16-ap-01383-RK, Brenda Moore  
12 Richards is Trustee, violated the automatic stay arising in this bankruptcy  
13 case by "fraudulently" transferring real property located at 3305 Stocker  
14 Street, Los Angeles, CA 90008, which was owned by the Trust in which he  
15 claims to be a two-thirds beneficiary, apparently claiming a beneficial interest  
16 in this property of the Trust, without providing any evidence in support of such  
17 claim in his moving papers. Defendant also alleges "Plaintiffs" (Defendant did  
18 not specify which Plaintiffs, and as noted earlier, there is only one Plaintiff in  
19 this adversary proceeding) received unauthorized payments from the transfer  
20 of the property in violation of the automatic stay. However, when the property  
21 was allegedly transferred on December 9, 2016 based on the recorded  
22 transfer deed attached as Exhibit A to Motion, there was no automatic stay in  
23 existence in this bankruptcy case. Pursuant to Federal Rule of Evidence 201,  
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1 the court takes judicial notice of its files and records in proceedings involving  
2 Defendant in cases before this court that Defendant had filed a Chapter 13  
3 bankruptcy case in this court, No. 2:15-bk-24261-VZ Chapter 13, on  
4 September 15, 2015, which was dismissed on November 10, 2015, and thus,  
5 had a Chapter 13 bankruptcy case pending within one-year period before he  
6 filed this Chapter 7 bankruptcy case on May 17, 2016 in No. 2:16-bk-16503-  
7 RK Chapter 7. *See Gerritsen v. Warner Brothers Entertainment Inc.*, 112  
8 F.Supp.3d 1011, 1034 (C.D. Cal. 2015)(“It is well established that a court can  
9 take judicial notice of its own files and records under Rule 201 of the Federal  
10 Rules of Evidence.”)(citations omitted). Because Defendant had a pending  
11 Chapter 13 bankruptcy case within the one-year period preceding the filing of  
12 this bankruptcy case and which was dismissed, the automatic stay in this later  
13 bankruptcy case shall terminate with respect to the debtor on the 30<sup>th</sup> day  
14 after the filing of this later case unless he obtained an order continuing the  
15 automatic stay, which he has not, as provided under 11 U.S.C. § 362(c)(3)(A).  
16 Pursuant to 11 U.S.C. § 362(c)(3)(A), the automatic stay terminated in this  
17 bankruptcy case on the 30<sup>th</sup> day after commencement of the case on June  
18 16, 2016 because Defendant did not obtain an order to continue the stay. *In*  
19 *re Reswick*, 446 B.R. 362, 365-373 (9<sup>th</sup> Cir. BAP 2011); *but see, In re Rinard*,  
20 451 B.R. 12, 17-20 (Bankr. C.D. Cal. 2011)(Clarkson, J.). Therefore, because  
21 the automatic stay terminated on June 16, 2016, there could have been no  
22 violation of the automatic stay by selling the property in which Defendant  
23 claims an interest, and thus, there is no basis for the court to find that Plaintiff  
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1 in this adversary proceeding in contempt for violating the automatic stay, and  
2 the Motion seeking to hold Plaintiff in this adversary proceeding in contempt is  
3 denied for lack of cause under LBR 9020-1.

4 2. As to Defendant's Motion for contempt specifically based on Plaintiff's alleged  
5 failure to provide discovery, Defendant fails to state cause to warrant initiating  
6 proceedings for holding Plaintiff in contempt on this ground under Local  
7 Bankruptcy Rule 9020-1(a) because he has failed to show how Plaintiff failed  
8 to obey a discovery order of the court. Defendant alleges that Plaintiff failed  
9 to comply with his discovery requests, but has not made any evidentiary  
10 showing that Plaintiff failed to comply with any court order enforcing his  
11 discovery requests. Therefore, the Motion is denied based on Defendant's  
12 allegations of Plaintiff's failure to comply with discovery.

13 3. Defendant's request for sanctions, including dismissal of the adversary case,  
14 based on Plaintiff's alleged failure to provide discovery is denied because  
15 Defendant has not complied with Local Bankruptcy Rule 7026-1(c)(3), which  
16 provides that if the parties to a discovery dispute are unable to resolve the  
17 dispute, the party seeking discovery must file and serve a notice of motion  
18 together with a written stipulation by the parties. LBR 7026-1(c)(3).  
19 Defendant has not submitted the required discovery dispute stipulation  
20 pursuant to LBR 7026-1(c)(3).

21 4. The court also determines that Defendant failed to show cause for a hearing  
22 of his motion on an emergency or shortened notice under Local Bankruptcy  
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1 Rule 9075-1 or for considering his motion on an ex parte basis under this rule  
2 and Local Bankruptcy Rule 9013-1.

3 5. For the foregoing reasons, the Motion is denied.  
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5 IT IS SO ORDERED.  
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Date: May 4, 2017



Robert Kwan  
United States Bankruptcy Judge